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SENATE

{ REPORT
105-103

THE FEDERAL TRANSIT
ACT OF 1997

R E P O R T

OF THE

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS
UNITED STATES SENATE



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CONTENTS

Introduction	Page 1
History of the Legislation	1
Purpose and Summary	2
Need for Legislation	2
Background	3
Section-by-Section Analysis	4
Section 1. Short Title and Table of Contents	4
Section 2. Authorizations	4
Section 3. Capital Projects and Small Area Flexibility	5
Section 4. Metropolitan Planning	6
Section 5. Metropolitan Planning Organizations	7
Section 6. Fare Box Revenues	7
Section 7. Clean Fuels Program	7
Section 8. Capital Investment Grants and Loans	9
Section 9. Transit Supportive Land Use	9
Section 10. New Starts	10
Section 11. Joint Partnership for Deployment of Innovation	10
Section 12. Workplace Safety	10
Section 13. University Transportation Centers	11
Section 14. Job Access Grants	12
Section 15. Grant Requirements	12
Section 16. HHS and Public Transit Service	12
Section 17. Proceeds from the Sale of Transit Assets	12
Section 18. Operating Assistance for Small Transit Authorities in Large Urbanized Areas	13
Section 19. Apportionment of Appropriations for Fixed Guideway Mod- ernization	13
Section 20. Urbanized Area Formula Study	13
Regulatory Impact Statement	14
Cost Estimate	14
Changes in Existing Law	17

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OCTOBER 8, 1997.—Ordered to be printed

Mr. D'AMATO, from the Committee on Banking, Housing, and
Urban Affairs, submitted the following

REPORT

[To accompany S. 1271]

The Committee on Banking, Housing, and Urban Affairs, reported an original bill, to reauthorize the mass transit programs of the Federal Government, and for other purposes having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

On September 25, 1997, the Committee on Banking, Housing, and Urban Affairs marked up and ordered to be reported an original bill to reauthorize the mass transit portion of the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA"). The reauthorization is for a period of six years through September 30, 2003. The bill authorizes \$35.7 billion for federal transit programs and \$600 million for an access-to-jobs program over the six year period from fiscal years 1998 to 2003.

The bill contains new authorizations for a clean fuels program and an access-to-jobs program to assist welfare recipients and other low-income individuals in getting to and from workplaces.

HISTORY OF THE LEGISLATION

The bill reported by the Committee incorporates proposals developed in consultation with the Administration, leading transit authorities, and transit-related industry leaders from across the country.

On July 22, 1997, the Committee held a hearing on ISTEA reauthorization. Gordon Linton, the Administrator of the Federal Transit Administration ("FTA") testified on behalf of the Administration. Also testifying were: Mr. Derick Berlage of the National Association of Counties, Mr. John Poorman of the American Association

of Metropolitan Planning Organizations, Mr. Edward Wytkind, Executive Director of the Transportation and Trades Department of the AFL-CIO, Mr. William Millar, Executive Director of the American Public Transit Association, Mr. Eugene J. Berardi, Jr., Board Member of the American Bus Association, Ms. Barbara Singleton, Associate Director of the Community Transportation Association of America, Mr. Hank Dittmar, Executive Director of the Surface Transportation Policy Project, Ms. Bernice Shepard, Board Member, American Association of Retired Persons, and Ms. Nancy Smith of the National Easter Seals Society.

On September 25, 1997, the Committee conducted a mark up of an original bill to reauthorize the mass transit portion of ISTEA. During the mark up, the Committee approved one amendment by a roll call vote of 11-7. The amendment, offered by Senator Moseley-Braun, authorizes the creation of a federal program to assist welfare recipients and other low-income individuals in getting to and from jobs where current mass transit services are not adequate to meet these needs. The Committee, by a rollcall vote of 17-1, ordered the bill, as amended, to be reported.

PURPOSE AND SUMMARY

The purpose of this bill is to provide for a six-year reauthorization of the transit programs under ISTEA. The bill essentially retains ISTEA's programs and formulas for distributing funds. The bill includes the following changes from ISTEA: refinement of the planning process, creation of a new clean fuels formula grant program, greater program flexibility for transit operators, and additional funds for workplace safety.

NEED FOR LEGISLATION

Transit services are often the only form of transportation available to many citizens. These services provide mobility to the millions of Americans that cannot, for various reasons, use an automobile. More than 80 million Americans, almost one-third of the U.S. population are transit-dependent; that is, they cannot drive or do not have access to a car. The 32 million senior citizens are the fastest growing segment of the nation's population. There are 24 million people with disabilities who require reliable, safe public transportation service to maintain their independence.

Today, the American transit industry consists of nearly 6,000 transit systems in both urban and rural areas, operating more than 124,000 vehicles. These include subways, buses, light rail, commuter railroads, ferries, vans, cable cars, aerial tramways, vans, and taxis. Non-profit elderly and disabled service providers constitute almost two-thirds of systems. An estimated 10 million people use transit each workday. More than half (54 percent) of all trips on transit are worktrips. People who choose to use transit come from every income level and demographic background.

Federal transit programs are not solely urban-centered. ISTEA has provided transit funding to both urban and non-urban areas. As a result, transit in rural America dramatically improved under ISTEA. Today, rural transit carries riders a billion miles each year. Rural areas have a higher incidence of elderly and disabled popu-

lations, and a higher percentage of low income persons than urban areas.

The Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA") expires on September 30, 1997. The Committee must take action to reauthorize the mass transit title of ISTEA in order to continue the federal government's critical role in mass transit programs.

BACKGROUND

Although ISTEA returned much of the decision making authority to state and local governments, ISTEA maintained a strong Federal role in transportation. ISTEA has worked well because of four basic principles: flexibility on funding decisions for state and local governments, the encouragement of public participation in the planning process, an emphasis on intermodal issues, and the promotion of environmentally sound intermodal transportation projects.

In 1991, ISTEA implemented a major overhaul of federal transportation policy to provide more flexibility for states and localities in using federal transportation dollars. ISTEA provided opportunities for state and local officials to use highway and transit funds flexibly for surface transportation projects. Under ISTEA, states and localities can use funds under the Surface Transportation Program ("STP"), and the Congestion Mitigation and Air Quality Improvement ("CMAQ") program to assist in financing transit improvements based on local conditions and needs. This flexibility has provided local decision makers with the tools to invest in the best transportation solution for that area, regardless of mode. Since the enactment of ISTEA through April 1997, local officials in 43 states have chosen to use more than \$3.1 billion in flexible funds on transit projects nationwide.

The transportation planning provisions of ISTEA are important to metropolitan areas and transit systems, as they allow for a balanced planning process that looks at all feasible local solutions and provides for appropriate citizen participation in the planning process. ISTEA specifically requires that government consult with business and the public to decide among the various transportation options, including mass transit and "intermodal" facilities that utilize more than one means of transportation.

The air quality benefits of mass transit over single occupant vehicle use are well documented. Without mass transit, there would be 5 million more cars on the nation's roads requiring 27,000 more lane miles of roads. Americans would spend an additional 367 million hours sitting in traffic jams.

While diminishing roadway traffic, transit reduces auto-related pollution and fuel consumption. America's transit travel, in replacing automobile travel, stops over 126 million pounds of hydrocarbons—a primary cause of smog—and 156 million pounds of nitrogen oxides from being released into the atmosphere.

The CMAQ program has been a particularly important environmental program beneficial to urban areas and transit systems. This program targets funds to air quality non-attainment areas and assists these areas in implementing transportation solutions that will improve air quality. The CMAQ program has provided non-attain-

ment areas with additional resources to improve existing transit systems and implement new transit services that reduce vehicle pollutants.

Mass transit also produces a number of economic benefits. A recent report entitled “Dollars and Sense: The Economic Case for Public Transportation in America” conservatively estimates that the net economic return on public expenditures for public transportation is 4 or 5 to 1.

Mass transit obviously reduces congestion on our roads and highways by offering commuters an alternative to driving. According to the FTA’s annual report, the annual economic loss to U.S. business caused by traffic congestion is \$40 billion. An additional \$15 billion would be lost if all U.S. transit commuters drove instead. As noted earlier, ten million Americans now use transit each working day. Another 25 million Americans use transit less frequently but on a regular basis. Thus, the expansion of our mass transit systems is critical to maintaining our productivity.

Mass transit plays an important role in facilitating economic development. A transit rail station enhances land values and attracts commercial development, thus creating additional jobs in that area. For example, a study by KMPG Peat Marwick, Fiscal Impact of Metrorail on the Commonwealth of Virginia, notes the economic impact of Metrorail service in Virginia. The report estimates that by 2010, Metrorail will have generated an additional \$2.1 billion in Virginia tax revenues and over 90,000 additional jobs.

In addition, mass transit provides the means for many workers who cannot afford cars to reach their jobs. 37 million people living below the poverty line often cannot afford a car and rely on transit to reach their jobs. In some cases, mass transit can help connect inner city welfare recipients with new suburban jobs. A 1993 study by the American Public Transit Association surveyed 56 reverse commuting programs. Of the 56 programs surveyed, 19 were linked directly to employment programs.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title and table of contents

This title would be referred to as the “Federal Transit Act of 1997”.

Section 2. Authorizations

Section 2 of the legislation would provide authorization levels for the various programs in the bill, including formula programs for both urban and rural areas under sections 5307 and 5311, section 5309 New Starts, fixed guideway modernization, and bus discretionary programs, section 5310 funds for elderly and handicapped transit services, and planning under sections 5303 through 5305. Funding is provided largely from the Mass Transit Account of the Highway Trust Fund, although general funds are also provided.

The bill retains the current program structure, including the section 5309 funding split for New Starts (40 percent of authorized section 5309 funds), fixed guideway modernization (40 percent), and the bus capital programs (20 percent). The bill retains the 5.5 percent allocation of formula funds for the rural program.

Funding for the various programs would be distributed consistent with current law. Three percent of total FTA funds would be authorized for planning, programming and research. Those funds would be distributed as follows:

45 percent would be available for Metropolitan Planning Organizations (“MPO”) under section 5303(g);

5 percent would be available for the Rural Transit Assistance Program under section 5311(b)(2);

20 percent would be available for the state research and planning program under section 5313; and

30 percent would be available for the national planning and research program under section 5314.

The bill keeps in place the existing set-asides of 0.96 percent of total FTA funds for administrative expenses under section 5334; 1.34 percent of total FTA funds for elderly and handicapped transportation under section 5310(a); and \$6,000,000 for each of fiscal years 1998 through 2003 under section 5317 for University Transportation Centers.

The bill authorizes \$35.7 billion for federal transit programs over the 6 year period from fiscal years 1998 to 2003 in a manner consistent with the recently enacted Balanced Budget Act. This represents a \$4 billion increase (13 percent) over ISTEA authorizations of \$31.5 billion. In addition, the bill authorizes \$600 million for a new access-to-jobs program designed to assist in getting welfare recipients and other low income individuals to and from work.

The Committee recognizes that there are many important transit systems that may not be built over the next six years because of budgetary constraints on the New Starts program. In addition, newly authorized projects must compete for funding through the appropriations process with other projects which have already received full funding grant agreements from the FTA.

The Committee recognizes the need to look at ways to leverage limited federal dollars to try and meet the ever-growing demand for mass transit. The Committee intends to continue to work to ensure that the mass transportation needs of the nation’s communities do not continue to go unmet because of a lack of creative financing.

The Committee recognizes the need for consistency between the treatment of funding under the Highway Account and the Mass Transit Account, both within the Highway Trust Fund. Under current law, the Mass Transit Account must meet a more stringent liquidity test. The Committee supports applying the liquidity test that now applies only to highway program funding to the mass transit program.

Section 3. Capital projects and small area flexibility

Section 3 of the legislation expands and clarifies the definition of “capital project” under section 5302(a)(1) to add preventive maintenance and intelligent transportation systems. It also brings together existing capital provisions on leasing of transit equipment and facilities, the deployment of new technology, and joint development activities into the broadened capital definition. Joint development is expanded to include safety elements and community services as eligible activities.

Making preventive maintenance an eligible capital expense gives transit operators greater flexibility and helps to ensure that the federal investment is properly maintained. Preventive maintenance does not include routine or servicing activities or repairing damage caused by an accident.

Section 3 also enables small urbanized areas, which are defined as having a population between 50,000 and 200,000, to use any funding distributed under the urbanized area formula program (section 5307), for either operating or capital expenses. Previously, this section limited the amount of formula funding that could be used for operating assistance in small urbanized areas. This enhanced flexibility mirrors that which is currently provided to rural areas (populations under 50,000).

Section 4. Metropolitan planning

Section 4 of the legislation amends the current metropolitan planning provisions in sections 5303, 5304, and 5305 and adds a new section 5305a on Statewide Planning. This new section largely parallels the statewide planning provisions in the highway laws, and is included as a separate provision in the transit laws, as suggested by the Administration, because rural and small urban transit recipients are subject to statewide planning requirements.

The planning provisions in the Committee's bill preserve and strengthen the ISTEA regional and statewide transportation planning process, which has been widely regarded as a major strength of the 1991 law. Many of the changes incorporated in the Committee bill were proposed by the Administration.

The bill retains the requirement that MPOs follow the ISTEA planning process outlined in the law. It replaces the 16 individual planning factors in current law with a broader list of seven national goals and factors for the MPOs to consider, and retains consideration of land use. The Committee clarifies that consideration of these seven factors applies to the planning process as a whole, not separately to each project under review. The Committee adds language directing the MPOs to cooperate with the state and transit operators, through a public process, to establish goals and propose programs relating to these factors. The bill adds freight shippers to the list of those who can comment on plans and transportation improvement programs. These same changes are included in the Statewide Planning provisions.

The bill retains the requirement that the transportation plans be fiscally constrained. This provision requires MPOs to identify the funding source for projects that are proposed for the regional transportation plan.

The bill adds new language directing MPOs to bring together the wide range of transportation services being provided within the region, many of which are funded either directly or indirectly by federal programs other than the Department of Transportation ("DOT"). The intent of the Committee is to encourage the participation of these non-DOT funded transportation services, either through individual or representative organizations, in coordinating regional transportation services. An analogous provision is included in the Statewide Planning provisions. The Committee recognizes elsewhere in the bill the importance of coordinating these transpor-

tation services. Indeed, the Department of Health and Human Services (“HHS”) and DOT have a long-standing Coordinating Council which is evaluating the departments’ current coordination strategies. The objectives of this coordination include: joint identification of human service client transportation needs and the appropriate mix of transportation services to meet those needs; the expanded use of public transit services to deliver human services program transportation; and cost-sharing arrangements for HHS program clients transported by ADA paratransit systems based on a uniform accounting system. The Committee anticipates receiving the Council’s coordination evaluation as soon as it is complete.

The bill adds new language for publication of information in the 3-year transportation improvement program and the annual selection of projects, as well as publication of information about the long-range transportation plan. It revises the requirement for redesignating MPOs. The bill adds clarifying language that MPOs will continue in their present form until redesignated. The Committee supports the principle that issues of MPO governance should be determined at the local level and intends that this provision ensure the continuity of existing MPO designations until a redesignation occurs as provided by law.

The Committee gives the Secretary greater flexibility in dealing with MPOs by permitting the Secretary to conditionally certify the MPO, rather than simply cut off a portion of federal funds.

Section 5. Metropolitan planning organizations

Section 5 of the legislation requires that any metropolitan planning organization that is classified as a transportation management area and is redesignated after the enactment of this Act, shall include representatives of the users of public transit. It is intended that rider advocacy groups and private citizens who depend upon mass transit should be represented in the metropolitan planning process.

Section 6. Fare box revenues

Section 6 of the legislation amends sections 5307(e) and 5309(h) to permit state and local transit agencies to use the proceeds from issuance of farebox revenue bonds to be used as the local share for financing capital projects. This change is intended to permit transit agencies to take advantage of recent developments in the financial markets. Revenue-backed bonds now have a broader, more fully-developed market than when this restriction was put in place.

The bill also makes clear that these revenue-backed issuances are not intended to supplant other existing funding sources. By making this change in the matching requirements, the Committee hopes to facilitate an overall increase in the level of investment in mass transit. Thus, this section includes a requirement that states must maintain their state and local level of investment at the average level of the past three years.

Section 7. Clean fuels program

Section 7 of the legislation creates a new Clean Fuels formula grant program, with an annual funding authorization of \$200 million. This program will assist transit systems in purchasing low

emissions buses and related equipment, constructing alternative fuel fueling facilities, modifying existing garage facilities to accommodate clean fuel vehicles and assisting in the utilization of biodiesel fuel. Participation in this new program is voluntary.

Funds are provided separately to large and small urbanized areas to ensure that there are sufficient funds available for each group. Two-thirds of authorized funding is provided to urbanized areas over one million population, and one-third to areas under one million population. At least 5 percent of the aggregate program funding must be used for hybrid electric or battery powered buses or related facilities. In addition, annual grants to any one recipient are capped at \$25 million for recipients in urbanized areas over one million population and \$15 million for recipients in urbanized areas under one million population.

Transit recipients wishing to participate in this program must apply to receive a grant by January 1 of each year. Funds are allocated according to a formula applied to all eligible applicants based equally on the recipient's bus fleet and passenger-miles of travel, with each component weighted by the severity of air quality non-attainment. This air quality non-attainment weighting is similar to that used in the CMAQ program formula under the federal highway program. Recipients must supply at least 20 percent of the project cost. Funds not used within two years are recycled to eligible recipients.

Eligible technologies include compressed natural gas ("CNG"), liquified natural gas ("LNG"), biodiesel fuel, battery, alcohol-based fuel, hybrid electric, fuel cell or other zero emissions technology. Other emerging technologies can be certified by the Secretary as eligible under this program if they meet or exceed emissions standards of existing clean fuel vehicles. It is the intent of the Committee that this program be used to help transit systems finance the purchase of alternative fuel, hybrid-electric and other low emissions technology vehicles. Although the Committee recognizes that newer diesel engines are less polluting than the older diesel engines that they replace, these newer "clean diesel" engines are not eligible under the Clean Fuel Program. Purchase of "clean diesel" buses and related equipment remain eligible under all other transit formula and bus discretionary programs.

An "electric bus" means a passenger bus of at least 15 feet in length that is primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current. A "hybrid electric bus" means a vehicle powered by a combination of an electric motor and a conventional fuel burning engine (using either diesel or natural gas fuel), which results in a more efficient use of energy and produces significantly lower emissions than conventional fuel burning engines alone.

Biodiesel is a renewable alternative fuel derived from agricultural feedstocks, such as soybean and other vegetable oils, as well as recycled waste cooking oils. Blends of biodiesel with petroleum diesel improve engine performance, wear and emissions. Biodiesel cuts down on targeted emissions significantly. The Committee recommends that biodiesel recipients of grants under this section use fuel blends of at least 50 percent biodiesel in order to achieve maximum environmental benefits. However, fuel blends containing a

minimum of 20 percent biodiesel are eligible for grants under this section, provided that buses in which fuel blends of less than 50 percent biodiesel are utilized have an exhaust system oxidation catalyst working in conjunction with the biodiesel fuel.

The Committee believes that the benefits of alternative fuel vehicles can be enhanced by the use of heavy-duty, lightweight composite primary structures. Lightweight composites can increase an alternative fuel vehicle's energy efficiency, particularly in the case of compressed natural gas engines which often weigh more than standard diesel engines. The category of lightweight composites includes such technologies as fiberglass sandwich composites including those which use the various, available vacuum-assisted resin infusion processes for the load bearing monocoque structure of the vehicle.

Fuel tax exemption

Section 6427 of the Internal Revenue Code provides limited exemptions for federal motor fuels taxation. Under current law, fuel purchased for intercity and local public transportation purposes is exempt from taxation, but only if the service is fixed-route, or if the service uses vehicles seating more than 20 adults. In general, this provision has little impact on most of the public transit network, because most bus operations in urbanized areas are provided by units of state or local government, who are exempted elsewhere from federal motor fuels taxation. Many private entities, however, do benefit from the current section 6427 provisions because they operate services that are fixed-route or use vehicles which seat at least 20 adults.

Unfortunately, many public transportation providers which serve the elderly, persons with disabilities, and rural areas do not benefit from the existing fuel tax exemption because they do not operate on fixed-routes or they use vehicles with a capacity under 20 passengers. The Committee feels this exemption should be changed.

While not within the jurisdiction of this Committee, the Committee supports modifying current law to ensure that small transit operators are eligible for the fuel tax exemption by either lifting both the fixed-route and capacity requirements, or by changing the capacity requirement from 20 passengers to 8 passengers.

Section 8. Capital investment grants and loans

Section 8 of the legislation extends the existing division of funds among the three discretionary grant programs under section 5309 through the life of the bill. Under this division, 40 percent is available for fixed guideway modernization, 40 percent is available for new fixed guideway systems and extensions to existing fixed guideway systems, and 20 percent is available for the replacement, rehabilitation and purchase of buses and bus-related equipment and facilities.

The section also renames section 5309 as "Capital Investment Grants and Loans."

Section 9. Transit supportive land use

Section 9 of the legislation amends section 5309(e)(3)(B) to add the benefits of transit-oriented land use as one of the factors to be

considered by the Secretary in reviewing New Starts projects. There is a growing awareness and agreement that mass transit investment produces economic benefits, partly through reduced local infrastructure costs. This change is intended to reflect the importance of these considerations in evaluating New Starts.

Section 10. New starts

Section 10 of the legislation amends section 5309(m) to limit the amount of New Starts funding that can be used for purposes other than final design and construction to 8 percent of amounts made available for this program. The Committee believes that this change is necessary to direct the majority of New Starts funding to projects that are ready for, or under construction. Local communities have a responsibility to demonstrate their commitment to transit projects by providing a greater share of their own monies to fund preliminary activities.

Eligible costs that are fundable as final design and construction activities include activities such as right-of-way acquisition, construction management, project management, value engineering, constructability reviews and peer view. These costs are eligible expenses regardless of whether required environmental review steps are completed or a record of decision has been issued.

Under current law, some portion of federal funds are used for activities such as environmental work, planning and preliminary engineering for transportation projects. It is the Committee's expectation that MPOs will continue to support these project activities through the available planning funds as provided by law.

Section 11. Joint partnership for deployment of innovation

Section 11 of the legislation amends section 5312, adding a new subsection "Joint Partnership Program for Deployment of Innovation," to implement major research activities. FTA would join with consortia of public or private organizations which provide mass transportation services to the public, and businesses offering goods or services to mass transportation providers. A consortium may also include public or private research organizations or state or local governmental authorities. The program would permit FTA to enter into cooperative agreements, grants, contracts, or other agreements with consortia to promote the deployment of innovation in mass transportation technology, services, management, or operations practices. The federal government's share of the cost would be limited to a maximum of 50 percent of the net project cost. The bill gives the Secretary the authority to establish the solicitation and award process. The bill further states that the Secretary shall receive a portion of the net revenues, with these proceeds credited to the Mass Transit Account and used for future joint partnerships under this subsection.

Section 12. Workplace safety

Section 12 of the legislation allocates an additional one million dollars annually from fiscal year 1998 through 2003 to the National Mass Transportation Institute at Rutgers University. This money is designated to establish a workplace safety training program at the Institute.

Section 13. University transportation centers

Section 13 of the legislation restores current law which designates University Research Institutes and Regional and National University Transportation Centers at various educational institutions around the nation. This section restores the designation and funding for these facilities following their repeal by the highway program reauthorization legislation as reported by the Senate Environment and Public Works Committee in S. 1173 on September 17, 1997.

University Research Institutes are charged with the responsibility of conducting transportation-related research and training students interested in careers in transportation. These institutes have provided federal and state Departments of Transportation, as well as the transportation industry, with vital studies and statistics on infrastructure conditions, transportation problems facing rapidly-growing urban and suburban areas, and a host of other topics.

Regional Transportation Centers are situated in colleges and universities in each of the ten United States Government regions that comprise the Standard Federal Regional Boundary System. Each Center carries out and disseminates research on transportation-related topics. Each Center must demonstrate a strong track record of transportation research before receiving a grant under this section. National University Transportation Centers have specific teaching and research missions, such as rural transportation, enhancing minority and women participation in transportation, and advanced transportation technology.

Section 14. Job access grants

Section 14 of the legislation authorizes the Secretary of Transportation to make grants totaling \$100 million per year to help welfare recipients and other low-income individuals get to and from jobs.

Sixty percent of funds appropriated under this program must be awarded to projects in large urbanized areas, 20 percent to projects in small urbanized areas, and 20 percent to projects in non-urbanized areas. Grants require a 50 percent local match. Other federal funds, notably those provided through programs at the Department of Health and Human Services, may be used to meet the matching requirements.

In order to promote coordination and regional planning, MPOs and States must apply for the grants on behalf of the States, local governments, transit properties, or non-profit organizations who will actually provide the transportation services. Grant funds received under this section are not intended for planning and coordination activities. MPOs and States are encouraged to use their planning funds received under Sections 5303 through 5305a for such purposes.

Grants may be used to establish or extend transit services to under-served areas, help provide transit services to workers with non-traditional schedules, encourage employers to provide transit passes to eligible individuals (but not for vehicles or operational costs for employer-provided transportation), or provide vouchers for eligible individuals to ride existing transit services.

Transportation services provided with funds under this section will be available to anyone currently receiving Federal welfare benefits, or anyone who has received benefits at any time during the preceding three years. Individuals living at or below 150 percent of the federal poverty definition are also eligible for services, although the Committee expects the Secretary to give priority consideration to projects that will serve the highest percentages of welfare recipients.

In order to measure the success of this program, this section directs the Comptroller General to study projects supported with these grants every six months, and requires the Secretary to conduct a thorough review of the programs after two years.

The Committee anticipates that this grant program will encourage recipients to implement long-term and self-sustaining plans to address the transportation needs of welfare recipients and eligible low-income individuals who live in areas devoid of job opportunities.

Section 15. Grant requirements

Section 15 of the legislation conforms the requirements for receiving formula and discretionary grants under sections 5307 and 5309 with requirements for entities receiving grants for transit projects under the recently enacted or proposed “innovative financing” programs, including State Infrastructure Banks (“SIBs”) and the Transportation Infrastructure Finance and Innovation Act (“TIFIA”). Identical requirements apply to innovative financing projects under the highway program.

Section 16. HHS and public transit service

Section 16 of the legislation requires coordination between governmental agencies and nonprofit organizations that receive federal government funds, either directly or indirectly, to provide non-emergency transportation services and public transit operators that receive assistance under this title. As discussed previously in the planning section, the Committee wants to encourage the participation of non-DOT funded transportation services, either through individual or representative organizations, in coordinating regional transportation services. Such coordination will eliminate costly duplication of services and lead to more comprehensive, streamlined transportation services provided to human service agency clients and the general public.

Section 17. Proceeds from the sale of transit assets

Under section 17 of the legislation, section 5334(g) is amended to allow grantees to sell assets, including land, that are acquired with federal funds and to retain the proceeds from the sale so long as the proceeds are used for mass transportation.

This change enhances flexibility in making decisions regarding asset disposition, and facilitates the undertaking of joint development projects.

Section 18. Operating assistance for small transit authorities in large urbanized areas

Section 18 of the legislation amends section 5336(d) to require the Secretary, in distributing operating assistance to large urban areas, to direct each area to consider the impact of any operating assistance reduction on smaller transit authorities operating within the area.

Section 19. Apportionment of appropriations for fixed guideway modernization

Section 19 of the legislation modifies the formula in section 5337 used to apportion funds under the existing Fixed Guideway Modernization program. The fixed guideway modernization program provides funding to improve and modernize the nation's older transit systems built decades ago, and also assists newer transit systems to maintain their infrastructure. To be eligible for fixed guideway modernization funds, a system or route segment must have been in operation for 7 years.

The formula revision preserves much of the existing formula distribution up to the FY 1997 funding level of \$760 million, and then increases the share of the program that goes to newer systems that have growing needs for modernization.

Funds up to \$760 million will be allocated only to those areas that received them in FY 1997, and eligibility for funding up to the \$760 million level will be based only on routes and segments of routes counted in the FY 1997 distribution. This means that current recipients of funding under the program will receive no less than their share of funds up to the \$760 million level using ISTEA formulas. Cities or segments that first become eligible for funding in FY 1998 will receive funding exclusively out of funding in excess of \$760 million. Furthermore, routes and segments of routes added to systems that currently receive funding under the program will not be counted in their modernization factors until such routes or segments are seven years old.

With regard to the distribution of funds in excess of \$760 million, the "new areas" in the program (those not now listed in Tier 1) will receive an increased share of program funding at levels in excess of \$760 million. Funding between \$760 million and \$900 million is allocated on a 65 percent–35 percent basis between "old" and "new" areas. Funding between \$900 million and \$1 billion is allocated on a 60 percent–40 percent basis between "old" and "new" areas. Funding in excess of \$1 billion is allocated on a 50 percent–50 percent basis. Areas in each group receive funding within their group under the applicable formula factors used in the urbanized area formula program.

Section 20. Urbanized area formula study

Section 20 of the legislation requires that the Secretary of Transportation conduct a study of the current urbanized area formula to determine whether changes are needed to reflect the fact that some small urban areas with populations under 200,000 carry more passengers per mile or per hour than larger systems operating in areas with populations over 200,000. This report, due December 31, 1999, shall also make recommendations for changes to the method

for apportioning funds to urbanized areas with populations between 50,000 and 200,000.

REGULATORY IMPACT STATEMENT

Pursuant to rule XXVI, paragraph 11(b), of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill and concludes that it will not increase the net regulatory burden imposed by the Government.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 8, 1997.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs,
U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Federal Transit Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kristen Layman.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Federal Transit Act of 1997

Summary: The Federal Transit Act of 1997 would authorize federal mass transit programs for fiscal years 1998 through 2003. For that six-year period, the bill would provide contract authority of approximately \$32 billion, primarily for the Federal Transit Administration (FTA). This amount would exceed the contract authority projected in CBO's March 1997 baseline by \$1.8 billion over the six-year period. In addition, the legislation would authorize the appropriation of about \$5 billion for other FTA programs for the 1998-2003 period. By providing new contract authority, the bill would affect direct spending; therefore, pay-as-you-go procedures would apply. However, because outlays from contract authority provided in this bill are controlled by annual obligation limitations in appropriations bills, the pay-as-you go effect on outlays from direct spending would be zero in each year.

The legislation would retain almost all of the transit programs and formulas for distributing funds that were authorized in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The bill also would retain all of the existing set-asides for administrative expenses, programs for the elderly and disabled, and university transportation center programs, and it would extend the current division of funds in the discretionary grants program. The legislation would authorize two new programs: an access-to-jobs program and a clean fuels program. Finally, the legislation would authorize additional funds for a workplace safety training program at the National Mass Transportation Institute at Rutgers University.

The Federal Transit Act of 1997 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments except as a condition of receiving federal assistance or participating in a voluntary federal program.

Estimated cost to the Federal Government: The estimated budgetary impact of enacting the Federal Transit Act of 1997 is shown in the following table. Authorizations of contract authority for the trust fund share of expenses and the capital investment grant program are included in the top portion of the table (“Direct Spending”). Authorizations of appropriations from the general fund for formula grants, access-to-jobs, and the clean fuel initiative are included in the bottom portion of the table (“Spending Subject to Appropriation”). The costs of this legislation fall within budget function 400 (transportation).

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002	2003
DIRECT SPENDING							
Baseline spending under current law:							
Estimated budget authority ¹	4,539	4,653	4,778	4,907	5,040	5,176	5,316
Estimated outlays	0	0	0	0	0	0	0
Proposed changes:							
Estimated budget authority	0	279	287	295	302	309	317
Estimated outlays	0	0	0	0	0	0	0
Total spending:							
Estimated budget authority	4,539	4,932	5,065	5,202	5,342	5,485	5,633
Estimated outlays	0	0	0	0	0	0	0
SPENDING SUBJECT TO APPROPRIATION							
Spending under current law:							
Budget authority	823	0	0	0	0	0	0
Estimated outlays ²	4,366	4,029	3,826	3,739	3,797	3,850	3,980
Proposed changes:							
Estimated authorization level	0	738	756	774	793	812	832
Estimated outlays ³	0	358	841	1,346	1,663	1,960	2,078
Total spending:							
Estimated authorization level	823	738	756	774	793	812	832
Estimated outlays	4,366	4,386	4,666	5,085	5,461	5,810	6,057

¹ The 1997 level is the amount of contract authority provided under ISTEA. The 1998–2003 levels are the amounts of contract authority included in CBO’s March 1997 baseline, which assumes annual increases for anticipated inflation.

² Includes both outlays from the mandatory contract authority for programs that are subject to annual obligation limitations, and outlays from discretionary appropriations.

³ Outlays from new authorizations in addition to the programs subject to the obligation limitation.

Basis of estimate

Enacting the bill would affect both direct spending and spending subject to appropriation. Over the 1998–2003 period, the bill would provide \$32 billion in contract authority (a form of direct spending). All of the outlays from such contract authority are controlled by annual obligation limitations established in appropriation acts. For the purpose of estimating outlays in this estimate, CBO assumes that obligation limitations would be equal to the annual contract authority levels in each year. All of the projected outlays controlled by appropriation action, whether from appropriated budget authority or annually limited contract authority, are shown in the bottom half of the table (“Spending Subject to Appropriation”).

Direct spending

Over the six-year period, the bill would provide contract authority totaling \$17.3 billion for the trust fund share of expenses, \$14.2 billion for the capital investment program, and \$100 million for the clean fuels program that would be created by the bill (the first two programs already exist). In addition, the bill would provide—over the 1998–2003 period—\$36 million in contract authority for university transportation centers, and \$38 million in contract authority for university research institutes.

Finally, the bill would allow the Secretary of Transportation to enter into partnerships to promote early deployment of innovation, and would allow the Secretary to accept a portion of the revenues resulting from the sale of innovation projects. These revenues could then be spent to enter into future partnerships. CBO estimates that receipts resulting from this provision would not be significant over the next five years and that any additional receipts would be offset by increased spending.

Spending subject to appropriation

For those programs with authorizations of appropriated funding, CBO assumes that the amounts authorized for each year would be appropriated by or near the start of each fiscal year. Outlay estimates are based on historical spending rates. The bill would authorize funding for the general fund portion of formula grants, university transportation centers, administrative expenses, transit planning and research, the clean fuel initiative, and the access-to-jobs program. Although the legislation is not specific in stipulation whether the existing programs would be funded from appropriated budget authority or contract authority, CBO assumes for the purposes of this estimate that they would be funded by appropriations because they are currently funded that way.

The access-to-jobs program is a new authorization provided in this bill. Outlay estimates are based on historical spending rates for formula grants. The bill would authorize the appropriation of \$100 million for the access-to-jobs program for each fiscal year from 1998–2003. For the other new program—the clean fuel initiative—the bill would authorize funding of \$200 million a year, of which \$100 million would be contract authority, and \$100 million would come from appropriations.

The legislation would direct the Secretary of Transportation to conduct a study to determine whether current apportionment formulas for urbanized areas accurately reflect the needs of those areas. In addition, the bill would require the Secretary of Transportation to conduct a study to evaluate the access-to-jobs program. Based on information from FTA, CBO estimates the cost of these studies to be approximately \$450,000. Spending for these studies would be subject to the availability of appropriated funds. In addition, the bill would direct the Comptroller General to conduct a study to evaluate the access-to-jobs program. Based on information from the General Accounting Office, CBO estimates the cost of this study to be negligible.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. While the bill

would provide contract authority for mass transit programs, the outlays for these programs are considered discretionary. Therefore, the pay-as-you-go effect on outlays from direct spending would be zero in each year. The bill would not affect governmental receipts.

Estimated impact on state, local, and tribal governments: The Federal Transit Act of 1997 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments except as a condition of receiving federal assistance or participating in a voluntary federal program. Most of the funding authorized in this bill would be redistributed to states in the form of grants for transportation purposes.

Estimated impact on the private sector: This bill would impose not new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Kristen Layman; Impact on State, Local, and Tribal Governments: Kristen Layman.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of paragraph 12 of the rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

